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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/918,761

08/01/2001

Clare L. Hoke JR.

2758

7590

04/08/2005

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/918,761	Applicant(s) HOKE, CLARE L.	
	Examiner James R. Brittain	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2004 and 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “recess in said third object is of similar geometric shape as said second sleeve or solid material” (claim 16, lines 5-6; claim 21, lines 5-6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

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Claims 19 objected to because of the following informalities: The term --permit-- (claim 19, line 7) is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14-23 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The passages "said recess largely not conforming to the shape of said sleeve" (claim 14, lines 2-3) and "said recess not conforming in shape to said largely circular sleeve" (claim 19, line 6) are not described in the specification as filed and are new matter. Only one shape of the recess is shown in the drawings and the shape is not described in the specification at all.

Applicant has no basis in the specification as filed to positively recite that the recess can have any shape through a negative limitation by stating that the shape does not conform to the shape of the sleeve. The negative limitation lacks any basis in the specification as filed and applicant is changing the scope of the original disclosure. There is no criteria in the application as filed to determine what scope applicant now seeks to include by the above quoted passages. The remaining claims contain new matter through their dependence upon claims 14 and 19. The term "of similar geometric shape" (claim 16, lines 5-6; claim 21, line 5) and "not of similar geometric shape" (claim 17, lines 5-6; claim 22, line 5) contains new matter because applicant has only one

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species, figure 2, with a recess 15 in the third object, it is unclear how applicant can have the shape "of similar geometric shape" in claims 16 and 21, while "not of similar geometric shape" in claims 17 and 22. This language lacks antecedent basis in the specification as filed and is of unknown scope and is therefore new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The passages "said recess largely not conforming to the shape of said sleeve" (claim 14, lines 2-3) is not described in the specification as filed and is unclear as to the scope applicant seeks to claim because the recess having the same shape as the sleeve would not appear to be precluded.

The passages "adhesives and or adhesives with additives ... powdered metals" (claim 14, lines 4-7; claim 19, lines 3-6) and "adhesives and or adhesives with additives" (claim 16, lines 4-5; claim 17, lines 4-5; claim 18, line 3; claim 21, lines 4-5; claim 22, lines 4-5; claim 23, line 3) is indefinite because it is unclear what adhesives and adhesives with additives comprises. It appears to be a double inclusion and is indefinite. Further, the quoted limitation in claims 14 and 19 recites a broad limitation "adhesives and or adhesives with additives" and then follows by a possibly narrower limitation reciting a listing of materials while indicating the adhesives and additives are not limited to the listed materials. It is not clear if the listed materials are recited in combination or not. A broad range or limitation together with a narrow range or limitation that

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falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

The use of the term "may" (claim 16, line 3) renders the claim unclear and indefinite because it is not particularly pointed out if the subject matter following "may" is a positive requirement for combination structure in the claim or not.

The passages "said recess largely not conforming to the shape of said sleeve" (claim 14, lines 2-3); "said recess not conforming in shape to said largely circular sleeve" (claim 19, line 6); "of similar geometric shape" (claim 16, lines 5-6; claim 21, line 5) and "not of similar geometric shape" (claim 17, lines 5-6; claim 22, line 5) renders the claims indefinite because the terms "largely" and "similar" are of unstated scope and it is unclear what bounds are placed on these terms because none are stated by applicant. As applicant has only one species, figure 2, with a recess 15 in the third object, it is unclear how applicant can have the shape "of similar geometric shape" in claims 16 and 21, while "not of similar geometric shape" in claims 17 and 22.

The indication that the articulated joint or connection is a rigid connection (claim 18, line 5; claim 23, line 5) contradicts the ordinary meaning of "articulated" and renders the claims indefinite because the ordinary meanings of words is being contradicted by the claims.

The remaining claims are indefinite because they depend from indefinite claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 15, 19 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Firks (US 3889736).

Firks (figures 2, 3) teaches an articulated joint or connection comprising a first object defined as the frame 26, bearing a recess 35, 36, 39, 41 to house a sleeve 23, the shape of the recess being different than the sleeve because the portion of the recess defined by the groove 41 fails to exactly follow the shape of the lower portion-48 of the sleeve, the sleeve is secured in the recess by adhesive (col. 4, lines 17-19), the sleeve is breached axially so as to permit axial connection between the solid material 68, 65; 59, 56 conforming in shape to the interior of the first sleeve, held within the first sleeve and defines an integral connection to a third object in the form of the base 61, 52. As to claim 19, the sleeve 23 is largely circular though its undercut channel (col. 4, lines 13-14) and has outer portions the same shape as the semi-circular bottom

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wall 39 of the recess (col. 4, line 1) and therefore meets the limitation of being largely circular.

The solid material 68, 65 in figure 2 and 59, 56 in figure 3 define a rod-shape.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Firks (US 3889736) in view of Ehrman (US 3547472).

Firks (figures 2, 3) teaches an articulated joint or connection comprising a first object defined as the frame 26, bearing a recess 35, 36, 39, 41 to house a sleeve 23, the shape of the recess being different than the sleeve because the portion of the recess defined by the groove 41 fails to exactly follow the shape of the lower portion 48 of the sleeve, the sleeve is secured in the recess by adhesive (col. 4, lines 17-19), the sleeve is breached axially so as to permit axial connection between the solid material 68, 65; 59, 56 conforming in shape to the interior of the first sleeve, held within the first sleeve and defines an integral connection to a third object in the form of the base 61, 52. The difference is that the third object fails to have a recess so that the solid material can be adhesively secured within the recess. However, Ehrman (figure 1) teaches that it is well known to provide adhesive securement of the solid material comprising the strip portion 31 within a recess (col. 2, lines 62-65) in the third object 13 wherein the solid material 31 has a portion 33 that extends from the recess into the sleeve 36. Ehrman teaches in this instance of the recess being of a different shape than the solid material 31, however Ehrman also teaches

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in a different joint configuration that the solid material 23c can have the same configuration as the recess in the third object 18. This provides the advantage of a tangential connection with no gap while permitting a modular kit for use at any point. As it would be advantageous to permit greater versatility in the uses of the connection of Firks and have no gaps, it would have been obvious to modify the connection of Firks so that the third object has a recess so that the solid material can be adhesively secured within the recess as taught by Ehrman to be well known in the art so as to provide the advantage of a tangential connection with no gap while permitting a modular kit for use at any point. As to claim 19, Firks teaches that the sleeve 23 is largely circular though its undercut channel (col. 4, lines 13-14) and has outer portions the same shape as the semi-circular bottom wall 39 of the recess (col. 4, line 1) and therefore meets the limitation of being largely circular. The solid material 68, 65 in figure 2 and 59, 56 in figure 3 define a rod-shape. The rejection of claims 21 and 22 is as stated above for the reasons taught by Ehrman.

Claims 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Firks (US 3889736) in view of Knechtel (US 1468786).

Firks (figures 2, 3) teaches an articulated joint or connection comprising a first object defined as the frame 26, bearing a recess 35, 36, 39, 41 to house a sleeve 23, the shape of the recess being different than the sleeve because the portion of the recess defined by the groove 41 fails to exactly follow the shape of the lower portion 48 of the sleeve, the sleeve is secured in the recess by adhesive (col. 4, lines 17-19), the sleeve is breached axially so as to permit axial connection between the solid material 68, 65; 59, 56 conforming in shape to the interior of the first sleeve, held within the first sleeve and defines an integral connection to a third object in the form of the base 61, 52. The difference is that the joint can slide and there is no adhesive

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between the sleeve and solid material. However, Knechtel (figure 2) teaches that in an articulated joint glue can be used and when used it obviously is no longer slidable, but is rigid (page 1, lines 100-103). As there are circumstances wherein it would be desirable to increase the versatility of the articulated joint of Firks wherein it isn't articulated, it would have been obvious to glue the solid material to the sleeve so as to form a rigid joint as taught by Knechtel so as to form a rigid joint (page 1, lines 100-103).

Response to Arguments

Applicant's arguments filed September 9, 2004 and January 10, 2005 have been fully considered but they are not persuasive.

Applicant provides no basis for overcoming the rejections under 35 U.S.C. 112 first and second paragraph. Applicant only points to descriptive material that only describes the single species that is shown in the drawings and then recites very general language making nominal use of the term "joinery" as overcoming the rejections. It is submitted that applicant's declaration indicates that applicant "reviewed and understood" the specification and claims at the time of filing and if dissatisfied with the description contained therein and that broader coverage should have been sought then that correction should have been made prior to filing by changing the specification to have included the language applicant now seeks to place within the claims.

Applicant posits that Firks shows the shape of the recess defined by the groove portions 41 as being in geometric conformity with the portions of the sleeve 48 and therefor fails to show the recess largely not conforming to the shape of the sleeve. It is submitted that applicant is more narrowly construing the claims than the claim construction permits and appears to be including limitations that are not recited in the rejected claim(s). Firks clearly shows gaps

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around the lower portion 48 as it resides in the groove and this demonstrates a difference in shape. Applicant provides no basis to discriminate between the different shapes taught by Firks and the claim language. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further states:

The applicant respectfully submits that if he didn't want to contradict the ordinary meaning and methods of traditional joinery, he wouldn't bother trying to patent something novel. The apparent contradiction is defined within the specification sufficiently to support jargon specific to the present invention.

It is submitted that the English language is perfectly well adapted to describe a rigid joint without the contradiction of utilizing the term "articulated" when there is no movement as indicated by claims 18 and 23.

Applicant's arguments with respect to Ehrman and Knechtel have been considered, but are addressed to those points taught by Firks and therefore are unpersuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

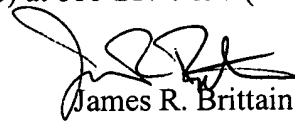
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James R. Brittain
Primary Examiner
Art Unit 3677

JRB